

(j) The party appealing the decision must provide notice of the appeal to the contracting officer and either the protested HUBZone small business concern or the original protester, as appropriate. SBA will not consider additional information or changed circumstances that were not disclosed at the time of the AA/HUB's decision or that are based on disagreement with the findings and conclusions contained in the determination.

(k) The ADA/GC&8(a)BD will make its decision within 5 business days of the receipt of the appeal, if practicable, and will base its decision only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protester, and the protested HUBZone small business concern. The SBA decision, if received before award, will apply to the pending acquisition. SBA rulings received after award will not apply to that acquisition. The ADA/GC&8(a)BD's decision is the final decision.

[63 FR 70269, Dec. 18, 1998, as amended at 64 FR 51831, Sept. 24, 1999]

19.307 Protesting a firm's status as a service-disabled veteran-owned small business concern.

(a) For sole source acquisitions, the SBA or the contracting officer may protest the apparently successful offeror's service-disabled veteran-owned small business status. For service-disabled veteran-owned small business set-asides, any interested party may protest the apparently successful offeror's service-disabled veteran-owned small business concern status.

(b) Protests relating to whether a service-disabled veteran-owned small business concern is a small business for purposes of any Federal program are subject to the procedures of Subpart 19.3. Protests relating to small business size status for the acquisition and the service-disabled veteran-owned small business status requirements will be processed concurrently by SBA.

(c) All protests must be in writing and must state all specific grounds for the protest. Assertions that a protested concern is not a service-disabled veteran-owned small business concern,

without setting forth specific facts or allegations, are insufficient. An offeror must submit its protest to the contracting officer. The contracting officer and the SBA must submit protests to SBA's Associate Administrator for Government Contracting. The SBA regulations are found at 13 CFR 125.24 through 125.28.

(d) An offeror's protest must be received by close of business on the fifth business day after bid opening (in sealed bid acquisitions) or by close of business on the fifth business day after notification by the contracting officer of the apparently successful offeror (in negotiated acquisitions). Any protest received after these time limits is untimely. Any protest received prior to bid opening or notification of intended award, whichever applies, is premature and shall be returned to the protester.

(e) Except for premature protests, the contracting officer must forward to SBA by mail or facsimile transmission (202-205-6390) any protest received, notwithstanding whether the contracting officer believes that the protest is insufficiently specific or untimely. The protest must be accompanied by a referral letter, with the notation on the envelope or facsimile cover sheet: "Attn: Service-Disabled Veteran Status Protest," and be sent to Associate Administrator for Government Contracting AA/GU, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

(f) The referral letter must include information pertaining to the solicitation that may be necessary for SBA to determine timeliness and standing, including the solicitation number; the name, address, telephone number and facsimile number of the contracting officer; whether the contract was sole-source or set-aside; whether the protestor submitted an offer; whether the protested concern was the apparent successful offeror; when the protested concern submitted its offer (*i.e.*, made the self-representation that it was a service-disabled veteran-owned small business concern); whether the procurement was conducted using sealed bid or negotiated procedures; the bid opening date, if applicable; when the protest was submitted; when the protester received notification about the

apparent successful offeror, if applicable; and whether a contract has been awarded.

(g) The Associate Administrator for Government Contracting will notify the protester and the contracting officer of the date the protest was received and whether the protest will be processed or dismissed for lack of timeliness or specificity.

(h) All questions about service-disabled veteran-owned small business size or status must be referred to the SBA for resolution. When making its determinations of veteran, service-disabled veteran, or service-disabled veteran with a permanent and severe disability status, the SBA will rely upon determinations made by the Department of Veteran's Affairs, Department of Defense determinations, or such determinations identified by documents provided by the U.S. National Archives and Records Administration. SBA will determine the service-disabled veteran-owned small business status of the protested concern within 15 business days after receipt of a protest. If SBA does not contact the contracting officer within 15 business days, the contracting officer may award the contract to the apparently successful offeror, unless the contracting officer has granted SBA an extension. The contracting officer may award the contract after receipt of a protest if the contracting officer determines in writing that an award must be made to protect the public interest.

(i) SBA will notify the contracting officer, the protester, and the protested concern of its determination. The determination is effective immediately and is final unless overturned on appeal by SBA's Office of Hearings and Appeals (OHA) pursuant to 13 CFR part 134.

[69 FR 25277, May 5, 2004, as amended at 70 FR 14954, Mar. 23, 2005]

19.308 Solicitation provisions and contract clauses.

(a)(1) Insert the provision at 52.219-1, Small Business Program Representations, in solicitations exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas.

(2) Use the provision with its Alternate I in solicitations issued by DoD, NASA, or the Coast Guard.

(b) Insert the provision at 52.219-22, Small Disadvantaged Business Status, in solicitations that include the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting. Use the provision with its *Alternate I* in solicitations for acquisitions for which a price evaluation adjustment for small disadvantaged business concerns is authorized on a regional basis.

(c) When contracting by sealed bidding, insert the provision at 52.219-2, Equal Low Bids, in solicitations when the contract will be performed in the United States or its outlying areas.

(d) Insert the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, in solicitations and contracts exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas.

[64 FR 51832, Sept. 24, 1999, as amended at 67 FR 13066, Mar. 20, 2002; 68 FR 28081, May 22, 2003. Redesignated at 69 FR 25277, May 5, 2004, as amended at 72 FR 36855, July 5, 2007]

Subpart 19.4—Cooperation With the Small Business Administration

19.401 General.

(a) The Small Business Act is the authority under which the Small Business Administration (SBA) and agencies consult and cooperate with each other in formulating policies to ensure that small business interests will be recognized and protected.

(b) The Director of Small and Disadvantaged Business Utilization serves as the agency focal point for interfacing with SBA.

[48 FR 42240, Sept. 19, 1983, as amended at 60 FR 48261, Sept. 18, 1995]

19.402 Small Business Administration procurement center representatives.

(a)(1) The SBA may assign one or more procurement center representatives to any contracting activity or